

THIRD AMENDMENT TO CONTRACT
A56-4-04-4

This is an amendment to the Agreement entered into by and between the Office of the Indiana Attorney General (hereinafter "State") and Stephanie Rothenberg whose address is [REDACTED] (hereinafter "Counsel").

The State and Counsel **have** agreed to amend the original agreement.

In consideration of the **mutual** undertakings and covenants hereinafter set forth, the parties agree as follows:

A. Paragraph 2 ("Consideration") is hereby deleted in its entirety and replaced with the following:

2. Consideration. Counsel shall be paid at the rate of **twenty** dollars (\$20.00) per hour. The maximum amount payable under this Agreement shall not **exceed** forty thousand dollars (\$40,000.00). Counsel shall submit **bi-weekly** invoices to the State showing with particularity the date and description of the Legal Services rendered. All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC 4-13-2-14.8, by electronic funds transfer to the financial institution designated by Counsel in **writing** unless a specific waiver has been obtained from the Auditor of State. No payments **will** be made in advance of receipt of the **goods** or **services** that are the subject of this Agreement except as permitted by IC 4-13-2-20.

B. **Paragraph 3** ("Term") is hereby deleted in its entirety and replaced **with** the following:

3. Term. This Agreement shall begin on April 19, 2004 and end on April 18, 2006. It may be renewed or extended only by **written** Agreement signed by both parties.

C. Paragraph 8 ("Compliance **with** Laws") is hereby deleted in its entirety and replaced with the following:

8. Compliance with Laws.

A. Counsel shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment of any state or federal statute or the promulgation of rules or regulations thereunder after execution of this Agreement shall be reviewed by the State and Counsel to determine whether the provisions of this Agreement require formal modification.

B. Counsel and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in **Indiana Code § 4-2-6 et seq.**, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If

Counsel is not familiar with these ethical requirements, the contractor should refer any questions to the State Ethics Commission, or visit the State Ethics Commission website at <<<<http://www.in.gov/ethics/>>>>. If Counsel or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Agreement immediately upon notice to Counsel. In addition, Counsel may be subject to penalties under Indiana Code § 4-2-6-12.

C. Counsel certifies by entering into this Agreement, that neither it nor its **principal(s)** is presently in arrears in payment of its taxes, permit fees or other statutory, regulatory or judicially required payments to the State. Counsel agrees that any payments currently due to the State may be **withheld from** payments due to Counsel. Additionally, further work or payments may be withheld, delayed, or denied and/or this Agreement suspended until Counsel is current in its payments and has submitted proof of such **payment** to the State.

D. Counsel warrants that it has no pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, Counsel agrees that the State may delay, withhold, or deny work under this Agreement and any supplements or amendments.

E. If a valid dispute exists as to Counsel's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to Counsel, Counsel may request that it be allowed to continue, or receive work, without delay. Counsel must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties.

F. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC 5-17-5.

G. Counsel warrants that Counsel and its subcontractors, if **any**, shall obtain and maintain all required permits, licenses, and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination and denial of further work with the State.

H. Counsel agrees that the State may confirm, at any time, that no liabilities exist to the State, and, if such liabilities are discovered, that State may bar Counsel from contracting with the State in the **future**, cancel existing contracts, withhold payments to setoff such obligations, and **withhold further payments** or purchases until Counsel is current in its payments on its liability to the State and has submitted proof of such payment to the State.

I. As required by IC 5-22-3-7:

(1) Counsel and any principals of Counsel **certify** that (A) Counsel, except for de **minimis** and nonsystematic violations: has not violated the terms of (i) IC 24-4.7 [Telephone Solicitation Of Consumers], (ii) IC 24-5-12 [Telephone Solicitations] , or (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred **sixty-five** (365) days,

even if IC 24-4.7 is preempted by federal law; and (B) Counsel will not violate the terms of IC 24-4.7 for the duration of the Agreement, even if IC 24-4.7 is preempted by federal law.

(2) Counsel and any principals of Counsel certify that an affiliate or principal of Counsel and any agent acting on behalf of Counsel or on behalf of an affiliate or principal of Counsel: (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) will not violate the terms of IC 24-4.7 for the duration of the Agreement, even if IC 24-4.7 is preempted by federal law.

D. The ethics paragraph is hereby deleted in its entirety.

This amendment shall take effect upon execution.

All other **matters** previously agreed to and set forth in the original agreement and not affected by this amendment shall remain in full force and effect.

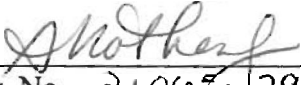
Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that **he/she** is the contracting party, or that **he/she** is the representative, agent, member, or officer of the contracting party, that **he/she** has not, nor has any other member, employee, representative, agent, or officer of the firm, company, corporation or partnership represented by him/her, **directly or** indirectly, to **the** best of **his/her knowledge, entered** into or offered to enter into any combination, collusion, or agreement to **receive or pay**, and that **he/she** has not received or paid, any sum of money or other consideration for the execution of this agreement other than that which appears upon the face of this agreement.

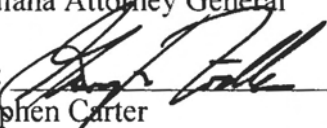
THE REST OF THIS PAGE IS LEFT BLANK INTENTIONALLY.

IN **WITNESS** WHEREOF, Counsel and the State of Indiana have, through duly authorized representatives, entered into this Agreement. The **parties having** read **and understand the** foregoing terms of the Agreement do by **their respective** signatures dated **below** hereby agree to the terms thereof.

Stephanie Rothenberg

By: 
Atty. No. 21065-29

Indiana Attorney General

By: 
Stephen Carter
Attorney General of Indiana

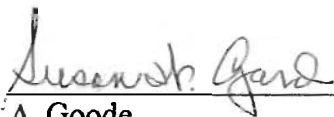
Date: _____


Date: 10-12-05

APPROVED BY:

DEPARTMENT OF ADMINISTRATION

OFFICE OF MANAGEMENT AND BUDGET

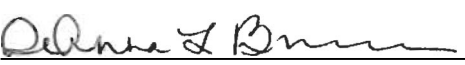
By:  (for)
Earl A. Goode,
Commissioner

By:  (for)
Charles E. Schalliol
Director

Date: 11-14-05

Date: 10/17/2005

APPROVED AS TO FORM AND
LEGALITY:

By:  (for)
Stephen Carter,
Attorney General of Indiana

Date: 10/20/05

SECOND AMENDMENT TO CONTRACT
A56-4-04-4

This is the SECOND AMENDMENT to the contract entered into by and between the State of Indiana acting **by** and Office of **the Attorney General (hereinafter the "State")** and Stephanie **Rothenberg**, whose address is [REDACTED] (hereinafter "Contractor").

WHEREAS, the State engaged Counsel to provide assistance in Habeas cases, and Counsel represented that she was qualified to provide the Legal Services; and

WHEREAS, the State now desires to amend the term and consideration of the agreement.

NOW THEREFORE, in consideration of **the** mutual promises and covenants set forth below, it is agreed by and between the State and Counsel as follows:

Paragraph **2(Consideration)** is deleted in its entirety and replaced with:

Counsel shall **be** paid at the rate of twenty **dollars (\$20.00)** per hour. The maximum amount payable under this Agreement shall **not exceed** thirty thousand dollars **(\$30,000.00)**. Counsel shall submit bi-weekly invoices to the **State** showing with particularity the date and description of the Legal Services rendered. All payments shall be made in arrears in accordance with Indiana law and state fiscal policies and procedures. In accordance with IC 4-13-2-20, the parties acknowledge that no retainer fee has been paid in connection with this Agreement.

Paragraph 3 (Term) is deleted in its entirety and replaced with:

This Agreement shall begin on April 19, 2004 and end on October 18, 2005. It may be renewed or extended only by written agreement signed by both parties.

This amendment shall take effect upon execution.

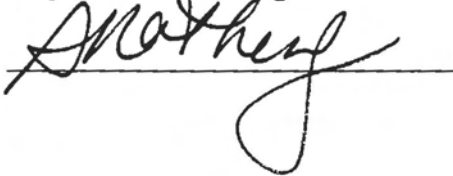
All other matters previously agreed to and set forth in the original agreement and not affected by this amendment shall remain in **full** force and effect.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that she is Counsel, she has not, nor has any other member, employee, representative, agent, or officer of Counsel, directly or indirectly, to the best of her knowledge, entered into or offered to enter into any combination, collusion, or agreement to receive or pay, and that she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement.

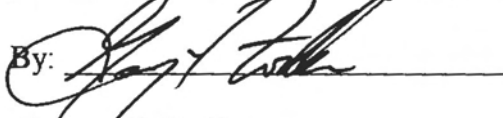
IN WITNESS WHEREOF, Counsel and the State of Indiana have, through duly authorized representatives, entered into this Amendment. The parties having read and understand the foregoing terms of the agreement do by their respective signatures dated below hereby agree to the terms thereof.

Stephanie Rothenberg



Date: 4-13-05

Indiana Office of the Attorney General

By: 
Gregory F. Zoeller,
Chief Deputy

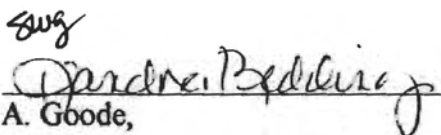
Date: 4/13/05

APPROVED BY:

DEPARTMENT OF ADMINISTRATION

APPROVED BY:

STATE BUDGET AGENCY


By: ^{sup} (for)
Earl A. Goode,
Commissioner

Date: 4-22-05

By:  (for)
Charles E. Schalliol,
Director

Date: 4/25/05

APPROVED AS TO FORM AND
LEGALITY:

By:  (for)
Stephen Carter,
Attorney General

Date: 4/27/05

FIRST AMENDEMENT/RENEWAL TO CONTRACT
A56-4-04-4

This is an **Amendment/Renewal** to the Agreement entered into by and between **The Office of the Attorney General** (hereinafter referred to as "State") and **Stephanie Rothenberg** (hereinafter referred to as "Counsel") dated April 16,2004.

In consideration of the mutual undertakings and covenants hereinafter set forth, the parties agree as follows:

A. Paragraph 2 ("Consideration") is hereby deleted in its entirety and replaced with the following:

Counsel shall be paid at the rate of twenty dollars (\$20.00) per hour. The maximum amount payable under this Agreement shall not exceed twenty thousand dollars (\$20,000.00). Counsel shall submit **bi-weekly** invoices to the State showing with particularity the date and description of the Legal Services rendered. All payments shall be made in arrears in accordance with Indiana law and state fiscal policies and procedures. In accordance with IC 4-13-2-20, the parties acknowledge that no retainer fee has been paid in connection with this Agreement.

B. Paragraph 3 ("Term") is hereby deleted in its entirety and replaced with the following:

This Agreement is for a period of one (1) year beginning on April 19,2004 and ending on April 18,2005. It may be renewed or extended only by **written** agreement signed by both parties.

C. Paragraph 47 ("Ethics") is hereby added:

Counsel shall abide by all ethical requirements that apply to persons who have a business relationship with an agency, as set forth in Indiana Code § 4-2-6 et seq., the regulations promulgated thereunder, and Executive Order 04-08, dated April 27,2004. If Counsel is not familiar with these **ethical** requirements, she should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission **website** at <<<[<http://www.in.gov/ethics/>](http://www.in.gov/ethics/)>>>. If Counsel or her agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Agreement immediately upon notice to Counsel. In addition, Counsel may be subject to penalties under Indiana Code § 4-2-6-12."

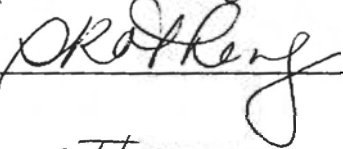
All other matters previously agreed to and set forth in the original Agreement and not affected by this **Amendment/Renewal** shall remain in full force and effect.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the contracting party, or that he/she is the representative, agent, member, or officer of the contracting party, that he/she has not, nor has any other member, employee, representative, agent, or officer of the firm, company, corporation or partnership represented by **him/her**, directly or indirectly, to the best of **his/her** knowledge, entered into or offered to enter into any combination, collusion, or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this **Amendment/Renewal**.

IN WITNESS WHEREOF, Counsel and the State of Indiana have, through duly authorized representatives, entered into this **Agreement**, The **parties having** read and understand the foregoing **terms** of the Agreement do by their respective signatures dated below hereby agree to the terms thereof.


Stephanie Rothenberg

By: 

Title: attorney

Date: 10-7-04

Indiana Attorney General

By:  (for)


Stephen Carter
Attorney General of Indiana


Date: October 13, 2004

APPROVED BY:

DEPARTMENT OF ADMINISTRATION

STATE BUDGET AGENCY

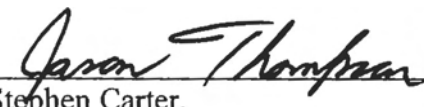
By:  (for)
Charles Martindale,
Commissioner

By:  (for)
Marilyn Schultz,
State Budget Director

Date: Oct. 19, 2004

Date: 10/20/04

APPROVED AS TO FORM AND
LEGALITY:

By:  (for)
Stephen Carter,
Attorney General of Indiana

Date: 10-21-04

AGREEMENT WITH OUTSIDE COUNSEL

THIS AGREEMENT ("this Agreement") is between the State of Indiana acting by and through the Office of the Indiana Attorney General (**hereinafter** the "State") and Stephanie Rothenberg, [REDACTED] (**hereinafter** "Counsel").

WHEREAS, the State requires assistance in Habeas cases, and Counsel represents that she is qualified to provide the Legal Services; and

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants set forth below, it is agreed by and between the State and Counsel as follows:

- 1. Duties of Counsel.** Subject to paragraph 17, below, Counsel shall represent the State in Habeas cases as requested by the State (the "Legal Services"). Pursuant to IC 4-6-5-3, the Indiana Attorney General hereby appoints and contracts with Counsel to provide the Legal Services. Counsel shall execute her responsibilities by **following** and applying the highest professional standards. Counsel shall use sound discretion with respect to the manner and method of performing services pursuant to this Agreement.
- 2. Consideration.** Counsel shall be paid at the rate of twenty dollars (\$20.00) per hour. The maximum amount payable under this Agreement shall not exceed ten thousand dollars (\$10,000.00). Counsel shall submit monthly invoices to the State showing with particularity the date and description of the Legal Services rendered. All payments shall be made in arrears in accordance with Indiana law and state fiscal **policies** and procedures. In accordance with I.C. 4-13-2-20, the parties acknowledge that no retainer fee has been paid in connection with this Agreement.
- 3. Term.** This Agreement is for a period of six (6) months beginning on April 19, 2004 and ending on October 18, 2004. It may be renewed or extended only by written agreement signed by both parties.
- 4. Access to Files and Records.** The State shall have full, immediate, and unrestricted access to the work product of the Counsel during the term of this Agreement. Upon termination or expiration of this Agreement, Counsel shall, without further request and at no cost to the State, **turn over** to the State all files relating to the work performed under this Agreement. Counsel acknowledges that she may be required to submit to an audit of **funds** paid pursuant to this Agreement, and shall maintain at her offices all books, accounting records, and other evidence pertaining to costs incurred and invoiced under this Agreement. Such materials shall be available during the term of this Agreement and for three (3) years from the date of termination or expiration, for inspection by the State or its authorized designee. Copies thereof shall be furnished at no cost to the State if requested.
- 5. Equipment, Supplies and Expenses.** Counsel shall provide, at her own expense, her own office, transportation, materials, supplies, telephone, and all other materials needed for her services. However, the State shall make available an office for Counsel's use when it is necessary for Counsel to review files available in the Office of the Attorney General. In addition, the State shall provide for necessary printing of briefs filed by Counsel on behalf of the State.
- 6. Assignment.** Counsel shall not assign any part of the Legal Services to be performed under this Agreement to a third party. Counsel may assign her right to receive payments to such third parties as she may desire without the prior written consent of the State, provided that Counsel gives

written notice (including evidence of **such** assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Agreement and shall not be made to more than one party.

7. Changes in Work Counsel ~~shall~~ not change scope of the Legal Services to be performed pursuant to this Agreement or undertake additional work on behalf of the State unless authorized in writing by the State. No claim for additional compensation shall be made in the absence of a prior written agreement.

8. Compliance with Laws and Licensing Requirements. Counsel and her employees shall comply with all applicable registration and licensing requirements, rules, standards and codes of conduct governing the practice of law and the transaction of business in Indiana. Counsel shall immediately notify the State if any disciplinary actions are brought against her. Counsel certifies, by entering into this Agreement, that neither she nor any of her associates or any other attorney associated with Counsel is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of the State of Indiana.

9. Conflict of Interest.

A. Counsel represents and **warrants** that, after due and diligent inquiry, she is satisfied that she has no Conflict of Interest (as that term is defined in the *Indiana Rules of Professional Conduct*) that will preclude her **from** providing the Legal Services.

B. Counsel represents and **warrants** that she has reviewed and is familiar with the statutes and regulations relating to the ethical conduct of state employees. Counsel certifies that, after due inquiry, no partner or any spouse or unemancipated child of any partner (collectively, an "Interested Party"), is an employee of the State of Indiana. If an Interested Party is an employee of the State of Indiana, Counsel shall provide the State with an opinion by the State Ethics Commission indicating that the existence of this Agreement and the employment by the State of Indiana of the Interested Party does not violate **any** statute or regulation relating to the ethical conduct of state employees.

10. Continuity of Services. Counsel recognizes that the Legal Services provided under this Agreement are vital to the State and must be continued without **interruption** and that, upon expiration or termination of this Agreement, a successor, either the State or another Counsel, may continue them. Counsel shall use her best efforts and cooperation to effect an orderly and efficient transition to a successor, and shall be reimbursed for all reasonable transition costs.

11. Disputes.

A. Counsel agrees that, the existence of a dispute notwithstanding, she will continue **without** delay to carry out all her responsibilities under this Agreement that are not affected by the dispute. Should Counsel fail to continue to perform her responsibilities as regards all non-disputed work, any additional costs incurred by the State or Counsel as a result of such failure shall be borne by Counsel, and Counsel shall make no claim against the State for such costs.

B. The parties agree to resolve disputes through submission of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to Counsel and the Office of the

Attorney **General** within ten ~~(10)~~ working days after presentation of such dispute for action. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise **furnishes** to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a Mitten appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration for a determination, or otherwise the dispute shall be submitted to an Indiana court of competent jurisdiction.

C. The State may withhold payment on disputed items pending resolution of the dispute. The unintentional nonpayment by the State of one or more invoices not in dispute in accordance with the terms of this Agreement will not be cause for Counsel to terminate this Agreement, and Counsel may bring suit to collect these amounts without following the disputes **procedure** contained herein.

12. Drug-Free Workplace. As required by Governor's Executive Order No. 90-5 dated April 12, 1990, Counsel certifies and agrees that she will provide a drug-free workplace by:

A. Publishing and **providing** to all of her employees a statement **notifying** her employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Counsel's workplace and **specifying** the actions that will be taken against employees for violations of such prohibition; and

B. Establishing a drug-free awareness program to inform her employees of **(1)** the dangers of drug abuse in the workplace; **(2)** Counsel's policy of maintaining a drug-free workplace; **(3)** any available drug consulting, rehabilitation, and employee assistance programs; and **(4)** the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace; and

C. **Notifying** all employees in the statement required by subparagraph (A), above, that as a condition of continued employment the employee will **(1)** abide by the terms of the statement; and **(2)** notify Counsel of any **criminal** drug statute conviction for a violation occurring in the workplace no later than five **(5)** days after such conviction; and

D. Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision **(C)(2)** above, or otherwise receiving actual notice of such conviction; and

E. Within thirty **(30)** days after receiving notice under subdivision **(C)(2)** above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: **(1)** take appropriate personnel action against the employee, up to and including termination; or **(2)** require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

F. Making a good faith effort to maintain a **drug-free** workplace through the implementation of subparagraphs (A) through (E) above.

13. Funding Cancellation. When the director of the State Budget Agency makes a written determination that **funds** are not appropriated or otherwise available to support continuation of

19. Notice to Parties. Whenever any notice, statement or other communication is required under this Agreement, it shall be sent to the following addresses by U.S. first class mail, postage prepaid.

A. Notice to the State shall be sent to:

Gary Secrest
Office of the Attorney General
302 W. Washington St.
ICGS, 5th Floor
Indianapolis, IN 46204

B. Notice to Counsel shall be sent to:

20. Penalties/Interest/Attorney's Fees. The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, finance charges, interest, or attorney's fees, except as required by Indiana law, in part, **IC 5-17-5-1 et seq.**, **IC 34-54-8-5**, and **IC 34-13-1-6**.

21. Severability. The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions.

22. Taxes. The State of Indiana is exempt from state, federal and local taxes. Because both parties to this Agreement consider Counsel to be an independent contractor and not an employee of the State, Counsel agrees that the State shall not be obligated to withhold any income or employment taxes from any payment made to Counsel pursuant to this Agreement. Counsel shall be solely responsible for the payment of any required taxes.

23. Termination. This Agreement may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in the best interest of the State. Termination of services shall be effected by delivery to Counsel of a Termination Notice at least fifteen (15) business days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The State will not be liable for legal services performed after effective date of termination. Counsel may terminate this Agreement as provided by Rule 1.16, *Indiana Rules of Professional Conduct*.

24. Waiver of Rights. No right conferred on either party under this Agreement shall be deemed waived and no breach of this Agreement excused, unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

25. Binding Authority; Non-Collusion and Acceptance. The undersigned attests, subject to the penalties for perjury, she has been duly authorized to execute this Agreement on behalf of the entity designated below, and that she has not, nor has any other partner, associate, member, employee, representative, agent, or officer of the entity designated below, directly or indirectly, to the best of her knowledge, entered into or offered to enter into any combination, collusion, or agreement to receive or pay, and that she has not received or paid, any sum of money or other

consideration for the execution of this Agreement, other than that which appears upon the face of this Agreement.

IN WITNESS WHEREOF, Counsel and the State by their duly authorized representatives have executed this Agreement **as** of the dates set forth below.

Stephanie Rothenberg

By: 

Date: 4-07-04

Department of Administration

By:  (for)

Charles Martindale, Commissioner

Date: 2/13/04

Indiana Office of the Attorney General

By:  (for)

Stephen Carter, Attorney General

Date: 4-7-04

Budget Agency

By:  (for)

Marilyn Schultz, Director

Date: 3-15-04

Approved for Form and Legality

By:  (for)

Stephen Carter, Attorney General

Date: 4-16-04